

Platon School MUN

ICJ Manual

Introduction

The International Court of Justice is the principal judicial organ of the United Nations and it is established in The Hague. It deals with international conflicts between countries that cannot be resolved in national courts. Apart from the judicial role the I.C.J has another function, it may be called upon by any UN organ or specialized agency to give an Advisory Opinion on a point of international law. The “legal basis” of the Court is international law and the conventions or agreements that have been reached between both parties. Last but not least the two official languages of the Court are English and French, but in this Model I.C.J all the statements, questions and speeches of the judges and advocates must be in English.

Different Roles in the Court

The Presidency

The President and Vice-President are elected by the Members of the Court every three years and are responsible for coordinating the trial. During judicial deliberations, the President has a casting vote in the event of votes being equally divided.

The Registry

The Registry is the permanent administrative organ of the ICJ. It is responsible to the Court alone. Since the ICJ is both a court of justice and an international organ, the Registry’s tasks are both providing a service helping in the administration of justice and serving as the secretariat of an international commission.

The Advocates

Advocates are the representatives of each country, the respondent and the applicant party. The applicant party is the one that has brought the case to the Court (in our case Germany) while the respondent is the one that is accused (in our case Italy). What both countries should bring are:

- a) Memorandum
- b) Evidence to support their case
- c) Stipulations
- d) Witnesses

All those terms will be explained in more detail later on.

The Applicant (Moving) Party

What the Applicant party has to do is convince the Judges of its accusations towards the Respondent party. The Applicant party should be very specific on its requirements which will be stated on their prayer. A main point that the advocates of the applicant party should bear in mind is that they have the "burden of proof". If at the end, the Moving party has met this, it wins, if not, it loses.

The Respondent Party

The Respondent party has to defend its side and has to prove that the accusations of the Applicant party are wrong. It needs to focus on the requests of the Applicant party that will be stated in their prayer and try to create confusion on the case. They should make the judges question all the evidence and become as uncertain as possible about the validity of the Applicant party's statements. They should not focus on already existing evidence and a good tactic would be to throw evidence that would pose even more questions and not let the Applicant party be clear. These tactics requires great skill, proper legal representation and full knowledge of the historical background (e.x. previous policy) of your opponents.

The Judges

Judges are an essential part of the Court and the trial since they are the ones to decide later on the outcome of the trial. This means that they will either, fulfil the requests of the Applicant party, or they will not and therefore the Respondent party will be called innocent. Judges should bear in mind during the three days of deliberation the quote:

"Innocent until proven guilty"

During the trial, it is important that all Judges take notes. It is logical that after three days of continuous analyzing and evaluation we will have come up with details worth noticing and we do not want them to be forgotten. Therefore, every single thing has to be noted down on a piece of paper. An effective technique of keeping notes of the proceedings includes lining down the centre of each page, so as to use the left side of the page for basic notes that come up during the speeches of the advocates and the right side for important points that are to be raised during the questioning of the advocate parties.

Being objective and unbiased is the most important trait of a Judge. For this reason, it is improper for Judges to substitute themselves in for advocates. This practically means that Judges are not supposed to investigate the case on their own. On the contrary, they are requested to only accept the evidence presented to them by the advocates. Therefore, Judges should by no means try to defend a specific Party without being based on evidence or law. However, this does not mean that Judges are not required to prepare themselves beforehand for the issues raised in the framework of the case in question. At this point, it must, also, be underlined that Judges should not pre-judge, since no case can be properly determined until all evidence is presented, namely after both sides have presented their respective cases.

As far as the relationship between the Judges and the Advocates is concerned, it is important to highlight that judges should under no circumstances discuss with the advocates until the cases are formally presented in the courtroom. In this respect, note-passing between Advocates and Judges is absolutely banned and if someone disobeys, the consequences will vary.

Finally, given that Judges do not represent a particular delegation or country, they are bound to follow the law, whatever the outcome. Thus, all points raised by the Judges should be based upon two main pillars: the facts of the case and their legal aspects. In this way, the deliberations of the Judges should address the facts of the case at hand under a legal perspective.

The Procedure of the trial

First of all, the opening statements take place, starting with the Applicant party and moving on with the Respondent party. The duration of this procedure should not take more than half an hour which means that each party has approximately 15 minutes to present its opening speech and give the judges an overall image of their point of view on the case and what they intend to prove and show during the trial. Only one of the advocate team should present the opening statements. The purpose of an Opening Statement is to tell the Court what you intend to show/prove by the presentation of your case. It is best to say, "We intend to show..." or "We intend to prove..." etc. The advocates should not make promises that they won't keep because the Opposing team will remind the judges of the promise that the advocates failed to keep.

After that, the presentation of the evidence begins. In every case, the Applicant party begins to present each piece of evidence. What needs to be pointed out is that advocates should not spend much time on analyzing each piece of evidence and they should just summarize and give us the basic idea. The Judges will analyze all evidence during deliberation. The Opposite party in both cases has the right to object on the grounds of credibility, reliability, accuracy and/or relevance. For example, if a piece of evidence is provided by the Applicant party, the Respondent can object and say "Objection, we believe that the source of this article is biased or non-credible because.... ". However, neither of the two parties can just disagree on the evidence. If they disagree then it's their job to present another more convincing piece of evidence that would support their point of view. All evidence will be marked down with a number or an alphabet letter.

Note: The maximum number of evidence that can be presented is 15. Normally it's 10 during the first presentation of evidence and another 5 at the rebuttal and this is what the advocates are advised to do so that, if a question is risen up, they have a last chance to present very important evidence at the rebuttal.

After all evidence has been presented to the Court, the advocates will be called to leave the room and the Judges will proceed with the first deliberation. What happens there is that the evidence is given to the Judges in random order and each one of them has some time to take notes and start stressing out the important parts of the evidence. It is important that the Judge makes sure that they don't forget any important detail since the details can make the difference, while on the other hand, they don't need to overanalyze. After evidence is presented, the Judges will have some time to discuss it and vote on its credibility. If more than 50% agrees that the evidence is credible then the evidence will be taken under consideration if not, the Court will just eliminate it without taking it at all under consideration.

After that, the examination of the witnesses will begin. Each party is allowed and advised to have three witnesses, however they are allowed to have less but not more.

It is important to note that witnesses count as evidence and their testimony is very important for the Court; therefore it is crucial that the advocates have devoted a lot of time in order to prepare them. If the witness is not well prepared then he / she might give misleading information and that would be bad for the party. Again, if more than 50% agrees that the witness is credible then the witness will be taken under consideration if not, the Court will just eliminate all the statements that he/she did during his testimony.

When the witnesses come in, they sit with their back to the advocates. They are not allowed to have eye contact with anyone but the Presidency. Then, the party which has called upon the witness will start asking questions (Direct Examination). During the direct examination no leading questions are allowed. After that, the opposite party has to ask questions to the witness as well (Cross Examination). These questions can and as a matter of fact should be leading. After both parties have rested their case, it is time for Judges to ask questions. After this process has been completed for all witnesses, Judges will vote upon the credibility of the witnesses and judge as to whether they should take all of them into consideration or not. After the deliberation, the advocates will be asked to come into the room to answer the questions of the Judges.

On the final day the Rebuttal takes place. The rebuttal is where the Advocates can bring some more evidence to show the Judges in order to ask questions or prove sayings that have yet to be proven. It is a good tactic to keep the best evidence for the rebuttal in order for the other party not to have time to fight back, so this would be a nice strategy to eliminate competition. The procedure will be the same as with the evidence that was presented on the first day. After that, a deliberation for the evidence presented in the rebuttal takes place. After the rebuttal we go straight to the Closing Arguments. During the Closing Arguments the advocates put all the pieces of evidence and testimonies together and argue what it all means and the conclusions they think should be drawn. The advocates can't argue their case until their Closing Arguments. Also the advocate may comment on the facts and law only during their Closing Statements. The Moving Party sums up first but may reserve a part of its time to sum up again the Respondent has finished with their Arguments. Then, the Advocates are asked back for final clarifications and questions.

Then the long deliberation takes place. Basically, what we will do is analyze in detail what has happened during the last three days. Some points of discussion will be made and we will analyze it bit by bit. After that, all Judges will vote. Each person has one vote and in case the votes are equal from both sides (meaning 7 votes for Greece and 7 for Turkey) the President has 2 votes to give in order for the result to be balanced.

Then the Verdict, which will be the official final decision, will be written down. The procedure for the Verdict will be explained during the Conference.

- Opening Statements by the Moving Party
- Reading Out the stipulations
- Opening Statements by the Respondent Party
- Applicant's Party Presentation of Evidence
- Respondent's Party Presentation of Evidence
- Deliberation
- Testimony of Witnesses
- Deliberation
- Questioning to the Advocates
- Rebuttal by both parties
- Deliberation
- Closing Arguments
- Final Deliberation
- Verdict
- Report to the GA

Forms of Address

Judge

"Your Honor"

"Judge" followed by their last name

Advocates

"Counsel"

"Counsel for Applicant/Respondent Party"

"Counsel for" followed by the name of their country;

TERMINOLOGY

Memorandum

The Memorandum is a party's view of the pertinent facts and legal principles or points of law as espoused by its advocates. This document is handed out to the Judges before the trial begins. It contains information on the case as seen by the specific Party and it can contain historical information, the country's policy on the case and finally the prayer by each party.

Stipulations

The Stipulations are made by both Parties together. It is actually a document that states some facts that both Parties agree on and whatever is on the stipulations is not questioned during the case; therefore the advocates should be very careful on what they agree to be part of the stipulations. Once agreed by both parties, these stipulated facts become real evidence.

Evidence

We have two types of evidence, “real” and “testimony”. Real evidence consists of objects of any kind, which include books, treaties and documents. Testimony is the statements of competent witnesses and **not fictional characters of organizations for ex NATO**. Basically with the evidence each party tries to support its points. The statements of the Advocates are NOT evidence. Furthermore, the validity of the sources should be very carefully considered by the advocates. For example, Wikipedia is not a credible source.

Hearsay question

A hearsay question is when a question is asked about someone who is not present in the Court.

Ex: – Is it true that President Obama (President Obama is not present in the Court therefore the question is a hearsay and will not be asked)

Leading Question

A query that suggests to the witness how it is to be answered or puts words into the mouth of the witness to be merely repeated in his or her response.

Leading questions are not allowed during the direct examination of a witness. They are permissible, however, on cross-examination. When a party calls a hostile witness, leading questions can be employed during the direct examination of such a witness.

Burden of proof

The burden of proof means proof in the preponderance of the evidence. This means that the Applicant has to persuade a simple majority of the judges that its position “carries weight” by at least 51%. If the Applicant met the burden of proof, they win.

Objections

During the presentation of evidence

The Advocates can object on the grounds of

- authenticity, e.x We are not sure if this is the whole article
- reliability, e.x This document is from an unknown author
- relevance, e.x It is not relevant to our case

During the presentation of evidence

- Hearsay, when the witness says something that someone else said
- Leading Question, when the advocate tries to lead the answer of the witness during the direct examination
- Irrelevant, when someone during the Cross Examination asks the witness something that it has not been brought up by the advocates during the Direct Examination.